

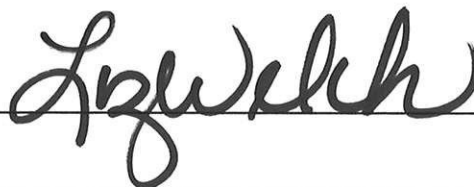
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Chapter No. 452  
19/SS36/R1212SG  
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## ***SENATE BILL NO. 2603***

Originated in Senate



Secretary

SENATE BILL NO. 2603

AN ACT TO AMEND SECTION 57-89-3, MISSISSIPPI CODE OF 1972, TO REVISE THE DEFINITION OF THE TERM "BASE INVESTMENT" UNDER THE MISSISSIPPI MOTION PICTURE INCENTIVE ACT TO PROVIDE THAT BASE INVESTMENT MAY INCLUDE CERTAIN PAYROLL AND FRINGES IN THE CASE OF CERTAIN MOTION PICTURE PRODUCTION COMPANIES; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

**SECTION 1.** Section 57-89-3, Mississippi Code of 1972, is amended as follows:

57-89-3. As used in this chapter, the following terms shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Base investment" means the actual investment made and expended in Mississippi by a motion picture production company in connection with the production of a state-certified production in the state. The term "base investment" includes amounts expended in Mississippi by a motion picture production company as per diem and housing allowances in connection with the production of a state-certified production in the state. The term "base

investment" shall not include payroll. However, in the case of a motion picture production company, or its owner, principal, member, production partner, independent contractor director or producer, or subsidiary company that (i) is designated and pre-qualified by the Mississippi Development Authority as Mississippi-based or a Mississippi resident; (ii) has filed income taxes in the State of Mississippi during each of the previous three (3) years; and (iii) has engaged in activities related to the production of at least two (2) motion pictures in Mississippi during the past ten (10) years, base investment may include payroll and fringes paid for any employee who is not a resident and whose wages are subject to the Mississippi Income Tax Withholding Law of 1968, if so requested by the motion picture production company. A motion picture production company must submit such a request to the Mississippi Development Authority at the time the company submits an application for approval as a state-certified production. In addition, if base investment includes payroll and fringes, and the payroll and fringes paid for an employee exceeds Five Million Dollars (\$5,000,000.00), then only the first Five Million Dollars (\$5,000,000.00) of such payroll and fringes may be included in base investment.

(b) "Employee" means an individual directly involved in the physical production and/or post-production of a motion picture produced in the state and who is employed by a:

(i) Motion picture production company that is directly involved in the physical production and/or post-production of a motion picture in the state;

(ii) Personal service corporation retained by a motion picture production company to provide persons used directly in the physical production and/or post-production of a motion picture in the state; or

(iii) Payroll service or loan-out company that is retained by a motion picture production company to provide employees who work directly in the physical production and/or post-production of a motion picture in the state.

(c) "Fringes" means costs paid by a motion picture production company on or after September 1, 2013, for employee benefits that are not subject to state income tax. Fringes may include, but are not limited to, payments by an employer for unemployment insurance, Federal Insurance Contribution Act (FICA), workers' compensation insurance, pension and welfare benefits and health insurance premiums.

(d) "Motion picture" means a nationally distributed feature-length film, video, DVD, television program or series, commercial, or computer or video game made in Mississippi, in whole or in part, for theatrical or DVD release or television viewing or as a television pilot or viewing through streaming video or internet delivery, or for playing on a video game console, personal computer or handheld device. The term "motion

picture" shall not include the production of television coverage of news and athletic events, or a film, video, DVD, television program, series, or commercial that contains any material or performance defined in Section 97-29-103.

(e) "Motion picture production company" means a company engaged in the business of producing nationally distributed motion pictures, videos, DVDs, television programs or series, commercials, or computer or video games intended for a theatrical release, for television viewing or for playing on a video game console, personal computer or handheld device. The term "motion picture production company" includes a company engaged in the business of making such productions through the use of animation, interactive media, preproduction and post-production 3D applications, video game cinematics, virtual production, visual effects, and motion capture within the fields of feature film, television, commercials and games. The term "motion picture production company" shall not mean or include any company owned, affiliated, or controlled, in whole or in part, by any company or person which is in default on a loan made by the state or a loan guaranteed by the state, or any company or person who has ever declared bankruptcy under which an obligation of the company or person to pay or repay public funds or monies was discharged as a part of such bankruptcy.

(f) "Payroll" means salary, wages or other compensation including related benefits paid to employees upon which Mississippi income tax is due and has been withheld.

(g) "Resident" or "resident of Mississippi" means a natural person, and for the purpose of determining eligibility for the rebate provided by Section 57-89-7, any person domiciled in the State of Mississippi and any other person who maintains a permanent place of abode within the state and spends in the aggregate more than six (6) months of each year within the state.

(h) "State" means the State of Mississippi.

(i) "State-certified production" means a motion picture approved by the Mississippi Development Authority produced by a motion picture production company in the state. An application for approval as a state-certified production must be submitted to the Mississippi Development Authority before production of the project begins.

SECTION 2. This act shall take effect and be in force from and after its passage.

PASSED BY THE SENATE  
March 28, 2019

  
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PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES  
March 28, 2019

  
\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

  
\_\_\_\_\_  
GOVERNOR

*April 8, 2019 4:41pm*